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10/572,851

03/22/2006

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EXAMINER

CAJILIG, CHRISTINE T

ART UNIT

PAPER NUMBER

3633

NOTIFICATION DATE

DELIVERY MODE

04/29/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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| | | | |
|------------------------------|---|---|--|
| Office Action Summary | Application No. 10/572,851 | Applicant(s) IMBABI, MOHAMMED SALAH-EDLIN | |
| | Examiner CHRISTINE T. CAJILIG | Art Unit 3633 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/26/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 36-65 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 36-65 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>6/21/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figures 3a and 3b. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: They do not contain headings or section as set forth in 37 CFR 1.77(b).

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Appropriate correction is required.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
 - (1) Field of the Invention.
 - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 41-43, 49-54 and 57-61, and all claims dependent therefrom are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 41 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential structural cooperative relationships of elements, such omission amounting to a gap between the necessary structural connections. See MPEP § 2172.01. The applicant claims a combination of the air permeable panel of claim 36, the intermediate layer, and a panel. The omitted structural cooperative relationships are: the relative relationship between the intermediate cladding layer and the air permeable panel.

Regarding claim 41, it is further unclear as to what "a panel" refers to. Is it the air permeable panel or another panel? For purposes of examination, and to be consistent with dependent claim 46, "a panel" is interpreted as referring to the air permeable panel of claim 36.

Claim 42 is indefinite because it is unclear as to what "a wall member" refers to. It is it a fourth panel or a third panel? Moreover, the recitation of "the panel" is unclear. Does "the panel" refer to "a panel" in claim 41 or does it refer to the air permeable panel?

Claim 43 is indefinite because of the recitation of "internal and external wall members." Such recitation implies that there could possibly be up to 6 panels ((1 and 2) panels on both sides of the intermediate layer and (3) intermediate layer in claim 41; (4)

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a wall member coupled to the panel in claim 42; and (5 and 6) internal and external wall members) that comprise the building cladding system.

Claims 49-54 and 57-61 are indefinite because it attempts to further limit "the intermediate layer" which is not positively claimed in claim 46. Claim 46 merely recites that the panel is "for an intermediate cladding layer."

Claims 54 and 55 are indefinite because they attempts to further define the intermediate cladding material (layer?) which is not positively claimed in claim 46. Claim 46 merely recites that the panel is "for an intermediate cladding layer."

Claim 56 is indefinite because it refers to "panel units." It is unclear what the "panel units" are because the term lacks antecedent basis.

Finally, the claims are replete with inconsistent terms which appear to be directed to the same element of the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best interpreted, claims 36-43, 46-62, and 65 are rejected under 35 U.S.C. 102(b) as being anticipated by Kuppers (WO 00/73602).

Regarding claim 36, Kuppers discloses a breathing wall air permeable panel (33) *for an intermediate cladding layer having filtering characteristics*, said breathing wall air

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permeable panel comprising: a plurality of projections (14) interconnected in a lattice configuration, said projections each having a tip portion, the respective tip portions being arranged to face in a common direction for engagement, in use, with said intermediate cladding layer, each said projection further having a base periphery at which adjacent projections are interconnected, the base peripheries being interconnected such that apertures (34) are defined between the base peripheries in the lattice configuration.

Regarding claim 37, Kupperts further discloses that said projections have a pyramidal form.

Regarding claim 38, Kupperts further discloses that the projections are provided as a hollowed element.

Regarding claim 39, Kupperts further discloses that the projections are configured to restrict penetration thereof into the intermediate cladding layer.

Regarding claim 40, Kupperts further discloses that the cross-sectional area of each projection increases along its longitudinal axis away from their tip portion.

Regarding claim 41, Kupperts further discloses a building cladding system incorporating an air permeable panel according to claim 36; wherein a panel (24) is provided on one or both faces of said intermediate cladding layer.

Regarding claim 42, Kupperts further discloses a wall member (25), adjacent the panel and coupled thereto.

Regarding claim 43, Kupperts further discloses internal and external wall members (2, 4) within which the panel and intermediate cladding layer are provided.

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Regarding claim 46, Kupperts discloses a breathing wall air permeable panel *for an intermediate cladding layer* having filtering characteristics, the panel comprising a plurality of hollowed elements (14 in 33) interconnected in a planar lattice arrangement, said hollowed elements facing in a common direction and being interspersed with apertures (34), the hollowed elements being interconnected at their base peripheries to define said apertures therebetween.

Regarding claim 47, Kupperts further discloses that the hollowed elements have a pointed outer surface for engaging said intermediate cladding layer.

Regarding claim 48, Kupperts further discloses that each hollowed element has a pyramidal form.

Regarding claim 55, Kupperts further discloses that the cladding layer is provided in the form of panel units.

Regarding claim 56, Kupperts further discloses that the panel units are provided in modular form.

Regarding claim 62, Kupperts further discloses that the panel is pressed from a single sheet.

Regarding claim 65, Kupperts further discloses wherein in use with the hollowed elements at or adjacent the intermediate layer, the apertures present an opening of expanding volume onto the intermediate layer.

Regarding claim 49-54 and 57-61, Kupperts discloses that the air permeable panel would be capable for use with any intermediate panel having the characteristics

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set forth in the aforementioned claims because the intermediate panel is not positively claimed in claim 46.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 44 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kuppers in view of Burges (U.S. Patent No. 3,217,455).

Regarding claim 44, Kuppers does not disclose one or more edge members, configured to interconnect adjacent intermediate cladding layers.

However, edge members to interconnect adjacent panels are old and well known in the art and help facilitate installation. Nonetheless, Burges discloses a composite panel with edge members (27, 38) to interconnect adjacent intermediate cladding layers to facilitate assembly of adjacent panels while allowing quick assembly and disassembly.

It would have been obvious to a person having ordinary skill in the art at the time of the Applicant's invention to modify the panel of Kuppers to have edge members configured to interconnect adjacent intermediate layers as taught by Burges to provide means to facilitate assembly and disassembly.

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Claims 63 and 64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kuppers.

Regarding claims 63, Kuppers discloses the structure discussed above, but does not disclose that the panel is molded from a plastic material.

It would have been obvious to one having ordinary skill in the art at the time of invention to mould the panels of Kuppers from a plastic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). A plastic material would provide advantageous properties such as corrosion resistance.

Regarding claims 64, Kuppers discloses the structure discussed above, but does not disclose that the panel is formed of fire retardant materials.

It would have been obvious to one having ordinary skill in the art at the time of invention to form the panels of Kuppers of fire retardant material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 227 F.2d 197, 125 USPQ 416 (CCPA 1960). A fire retardant material would provide the obvious advantage being able to withstand fire and high temperatures, thus helping preserve the integrity of a building structure.

Allowable Subject Matter

Claim 45 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anderson et al. (US 5799454); Newport (US 2150338); Soltis (US 3763633); Meginnity (US 2293351); Venzie (US 2150997); Ward (US 2264961); Williams (US 1875188); Borgford (US 3914486); Morimoto (US 5192624); Resch (US 4397902); Czaplicki (US 5028474).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTINE T. CAJILIG whose telephone number is (571)272-8143. The examiner can normally be reached on Monday - Thursday from 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571) 272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. T. C./
Examiner, Art Unit 3633

/Robert J Canfield/
Supervisory Patent Examiner, Art Unit 3635